

The Supreme Court of Ohio

MEMORANDUM

To: Chief Justice Sharon Kennedy

CC: Stephanie Hess, Interim Administrative Director
Stephanie Nelson, Director, Court Services Division

From: Judge Joyce Kimbler, Medina County Court of Common Pleas General Division, Chairperson Commission on Dispute Resolution
Magistrate Penny Gates, Clermont County Court of Common Pleas, Domestic Relations Division, Vice-Chairperson Commission on Dispute Resolution
Marya Kolman, Manager Dispute Resolution Section

Date: January 31, 2023

Subject: 2022 Annual Report of The Dispute Resolution Commission

Pursuant to Sup.R. 16.09, Judge Joyce Kimbler, Medina County Court of Common Pleas, General Division, Chairperson of the Commission on Dispute Resolution (hereafter Commission,) and Magistrate Penny Gates, Clermont County Court of Common Pleas, Domestic Relations Division, Vice-Chairperson of the Commission, submit the Commission on Dispute Resolution's 2022 Annual Report. The Commission thanks the staff of the Dispute Resolution Section, Court Services Division, and the Judicial College for their assistance.

Purpose of the Commission on Dispute Resolution

As provided in Sup.R. 16.02, the Commission advises the Supreme Court and its staff on the following:

- 1) Promotion of statewide rules and uniform standards concerning the use of dispute resolution in Ohio courts;
- 2) The development and delivery of dispute resolution education and professional development activities for judges, magistrates, court personnel, attorneys, and court-affiliated dispute resolution professionals;
- 3) The development and delivery of dispute resolution services for disputes arising among state, county, and local public officials throughout Ohio;
- 4) The consideration of any other issues the commission deems necessary to assist the Supreme Court and its staff regarding the development and delivery of dispute resolution programs and services.

2022 Activities and Accomplishments

The full Commission met by videoconference on March 24, 2022, June 30, 2022, and October 20, 2022. Commission subcommittees also met by videoconference and telephone throughout the year. The Commission worked with the Dispute Resolution Section as follows during 2022:

Dispute Resolution Education and Training Subcommittee

William Froehlich, chair

- Contract, staff and volunteer educators, including current and former Commission members, conducted eighteen (18) dispute resolution training and education courses for mediators, court personnel and attorneys over thirty-nine (39) training days. There were 301 participants in these events. These programs included skills-based trainings in Fundamentals of Mediation, Specialized Family and Divorce Mediation, Domestic Abuse Issues for Mediators, School Attendance Mediation, Elder Mediation, Parenting Coordination and Neutral Evaluation.
- Nineteen (19) virtual roundtables were held for court staff and court-connected dispute resolution professionals to share best practices and provide networking opportunities. These included separate roundtables for civil, family, eviction, foreclosure, appellate and experienced mediators and parenting coordinators. Conversation starters and short educational components were added to the roundtables this year to make them more informative for participants. Roundtable topics included Working with Interpreters in Mediation, Non-Party Participants in Mediation, Co-Parent Coaching in Domestic Relations cases, Techniques to Overcome Impasse, Expanded Authority in Parenting Coordination, Online Dispute Resolution in Foreclosure cases and many more.
- The Education and Training subcommittee chair brought together a workgroup of experienced dispute resolution educators to review the Fundamentals of Mediation course that was last revised five (5) years ago, prior to the 2020 updates to Rule 16 of the Ohio Rules of Superintendence and before the widespread use of virtual mediation. The review committee recommended updates to the Fundamentals curriculum and course materials which were then piloted four (4) times. The subcommittee will submit its recommendations to the Commission for consideration at the March 2023 meeting.
- Four (4) advanced virtual training programs for mediators and court personnel were held in 2022. In May, William Froehlich and Amy Schmitz, both faculty members at the Moritz College of Law, provided a training program on Online Dispute Resolution for court personnel and mediators involved in the OH-Resolve Online Dispute Resolution pilot project. Advanced parenting coordination half-day trainings were provided by Anna Tyrell in July, and Debra Carter in December. Both are very experienced parenting coordinators. Retired Magistrate Richard Altman presented a virtual half-day session on “Avoiding Mediation Pitfalls” in December.
- Online courses on the Fundamentals of Mediation, Family and Divorce Mediation, Child Protection Mediation, Domestic Abuse Issues and Online Dispute Resolution remain available in OhioCourtEDU. These modules, which are available to court personnel, attorneys, and mediators as well as to training participants, were completed by 863 individuals in 2022.

- The subcommittee also continued to update the manual and skills-based training portion of the Domestic Abuse Issues Training for Mediators incorporating the learnings from pilots of the revised programs.

Government Conflict Resolution Services (GCRS) Subcommittee

Chris Abbuhl, chair

- Dispute Resolution Section staff and contract mediators mediated five (5) Government Conflict Resolution Services (GCRS) cases and responded to numerous inquiries about the program. GCRS is a confidential dispute resolution program designed to assist county and local public officials resolve and prevent conflicts on a wide variety of topics using mediation, facilitation, and neutral evaluation.
- Subcommittee members, Chris Abbuhl (chair), Carolyn Rice (Montgomery County Commissioner) and Glenn Miller (Henry County Commissioner) provided information about the GCRS program to several groups of government officials.

Process and Procedure Subcommittee

Judge Karen Phipps, chair

- The neutral evaluation Rules of Superintendence 16.50 – 16.55 were approved by the Justices in September 2022 with an effective date of January 1, 2023. Neutral evaluation is a process in which parties present their claims or defenses and describe the evidence in their case to a neutral third-party (the neutral evaluator) who has expertise in the subject matter of the dispute. Following the presentation, the neutral evaluator shares impressions with the parties and their counsel about strengths and weaknesses of the case. A workgroup, chaired by Magistrate Rosalind Florez of Hamilton County Domestic Relations Court, is preparing a toolkit to assist courts who would like to establish a neutral evaluation program.
- The parenting coordination Rules of Superintendence 16.60 – 16.66 were approved by the Justices in September 2022 with an effective date of January 1, 2023. Parenting coordination is a process to resolve disputes among parents who need assistance in 1) adhering to judicial parenting decrees, 2) communicating effectively with one another or 3) resolving disagreements about their children. The goal of the revisions was to make the rules align with the format of Sup.R. 16, to provide consistent and high-quality programs throughout the state and to provide courts with a flexible structure to use parenting coordination as best fits their needs. A workgroup, chaired by Judge Colleen Falkowski of Lake County Domestic Relations Court, is preparing a toolkit to assist courts who currently have or would like to establish a parenting coordination program.
- The subcommittee is looking into ways to expand the use of civil mediation in Ohio courts. A focus group of court mediators and court administrators met in December 2022 to discuss their civil mediation programs. The subcommittee will be compiling information about these and other existing programs and will develop recommendations for courts that are looking into providing or expanding civil mediation.

Strategic Planning Subcommittee

Maara Fink, chair

- The Strategic Planning subcommittee worked with the Dispute Resolution Section to continue developing and implementing a statewide pilot program for Online Dispute Resolution (ODR) for foreclosure, evictions, small claims and family cases under a grant from the State Justice

Institute. ODR is an online, court-monitored messaging system in which parties can communicate with each other, with or without the assistance of a mediator, and discuss possible resolutions of their case. ODR goals include increasing access to justice for self-represented parties, decreasing the number of in-person court hearings and mediations and decreasing the time to resolve cases. The foreclosure, eviction and small claims pilot projects completed the one-year pilot project period in 2022. The domestic relations and family court projects started later and will continue their pilot projects into 2023.

- The subcommittee is also beginning a project to review the status of mediation and other dispute resolution programs in Ohio twenty (20) years after the institutionalization of mediation in Ohio courts. The project will include a survey of court dispute resolution programs and mediators to learn about the types of services they provide and if and how their mediators are compensated. The survey will also ask about any concerns or suggestions respondents have regarding mediation and other dispute resolution programs in Ohio.

School Attendance Subcommittee

Judge Lori Reisinger, chair

- In conjunction with the Supreme Court's Children and Family Section, the School Attendance Subcommittee developed a toolkit for courts and school districts to help prevent school attendance issues from occurring and subsequently resulting in truancy filings.
- The Subcommittee is also exploring programs and techniques and resources to help improve school attendance and is compiling information about school attendance initiatives in other states.

Dispute Resolution Section

Marya Kolman, Anne Thompson and Kevin Lottes, section staff

- The Dispute Resolution section staff worked with and assisted the Commission on all the projects listed above.
- The Dispute Resolution Section Manager and Mediation Counsel mediated 34 cases referred to them by the Court. The goal of these mediations was to assist the parties in resolving their conflicts themselves without the need for formal court proceedings. Most of these cases involved public records, state and local tax, and workers' compensation issues and required multiple mediation sessions.
- The Section maintained a national and international presence through membership, leadership, presentations and curriculum development in the Association for Conflict Resolution, the Association of Family and Conciliation Court, the Ohio Mediation Association, and the American Bar Association Dispute Resolution Section. Section Manager, Marya Kolman, served as President of the Board of Directors of the Association for Conflict Resolution.
- Section staff gave presentations to the Ohio Judicial Conference, the Ohio Association for Court Administration, the Ohio Association of Municipal and County Court Clerks, the Ohio State Bar Association, Moritz College of Law and local bar association groups.